

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1337 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgement?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SP VAGHELA

Versus

GUJARAT INDUSTRIAL DEVELOPMENT CORPORATION

Appearance:

MR GT DAYANI for Petitioner

MR MB GANDHI for Respondent No. 1

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 01/12/2000

ORAL JUDGEMENT

The petitioner herein was the original plaintiff of civil suit, being Special Civil Suit No.14 of 1994. The aforesaid suit was filed against G.I.D.C., Ahmedabad, for recovery of certain amount. In the aforesaid suit, the plaintiff could not serve the summons of the Court to

the defendant and, therefore, the learned Civil Judge (S.D.), Himatnagar passed an order to the effect that since the plaintiff is not in a position to furnish correct address of the defendant and since he has not remained present nor he has given the correct address of the defendant, the suit is dismissed for want of giving proper address of the defendant.

Today, at the time of hearing of the Revision Application, M.Gandhi pointed out that the present plaintiff is absolutely negligent and being a Contractor, it is not possible to believe that the correct address of the defendant-G.I.D.C. was not known to him. He, however, submitted that he has no objection if the order dismissing the suit for default is set aside and he further informs the court that the G.I.D.C. on their own will file appropriate appearance through their lawyer in the aforesaid suit pending before the Civil Judge (S.D.), Himatnagar. He, however, submits that in view of the negligent conduct of the plaintiff, heavy costs should be awarded in favour of G.I.D.C.

It is no doubt true that there is total negligence on the part of the plaintiff. In that view of the matter, the petitioner is directed to pay costs of Rs.5,000/- to the G.I.D.C., which is the cost for defending the present revision application. The amount of costs to be paid by account payee cheque in favour of G.I.D.C. on or before 25th December, 2000. The said cheque may be handed over to the learned counsel Mr.Gandhi, who is appearing for G.I.D.C., and on production of such receipt before the trial court by the plaintiff certifying the aforesaid payment, the Court will proceed further with the suit in accordance with law. Mr.Gandhi, however submits that according to him, the suit will not be maintainable before the civil court in view of the establishment of the Gujarat Public Works Contracts Disputes Arbitration Tribunal. The learned trial Judge is directed to decide whether the suit before the Court is maintainable or not. Today, this Court is passing order regarding the impugned order dismissing the suit and, therefore, this Court is not called upon to decide the merits of the aforesaid issue. The impugned order is, therefore, set aside. Special Civil Suit No.14 of 1994 is restored to the file of the Civil Judge (S.D.), Himatnagar and the same should be proceeded further on merits. It is, however, clarified that if the aforesaid amount is not paid to the G.I.D.C., as stated above on or before 25th December, 2000, this order will be of no effect and the revision shall be treated as dismissed. This order will be treated as an effective

order only after deposit of the aforesaid amount of costs and the learned Judge before proceeding further with the suit shall ensure whether the amount of costs is paid to the G.I.D.C. or not. This CRA is disposed of as above. Rule is made absolute to the aforesaid extent. Costs quantified at Rs.5,000/- as above.

1st December, 2000 (P.B. Majmudar, J.)

(apj)